

## Message Text

CONFIDENTIAL

PAGE 01 QUITO 02525 01 OF 04 141854 Z

44

ACTION ARA-17

INFO OCT-01 ADP-00 COA-02 CIAE-00 PM-09 H-02 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12 CG-00

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R 141650 Z MAY 73

FM AMEMBASSY QUITO

TO SECSTATE WASHDC 7431

INFO AMEMBASSY LIMA

AMCONSUL GUAYAQUIL

USCINCSO

DIA WASHDC

C O N F I D E N T I A L SECTION 1 OF 4 QUITO 2525

E. O. 11652: GDS

TAGS: PFOR, EFIS, EC, US

SUBJECT: CT RECOMMENDS NEW FISHERIES SOLUTION FOR ECUADOR

POLICY

1. SUMMARY: THE CT BELIEVES THAT FISHERIES AND RELATED POLICIES MAY HAVE RECENTLY CHANGED IN A WAY WHICH OPENS THE POSSIBILITY OF A NEW SOLUTION TO THE FISHERIES DISPUTE BETWEEN THE US AND ECUADOR. END SUMMARY

2. IN THE OPINION OF THE COUNTRY TEAM THE FISHERIES AND LOS POSITIONS OF ECUADOR AND THE US MAY HAVE CHANGED SIGNIFICANTLY SINCE LAST DECEMBER THAT THERE COULD NOW BE AN AREA OF POTENTIAL AGREEMENT SUFFICIENTLY LARGE TO JUSTIFY A NEW ATTEMPT AT REACHING A FISHERIES SOLUTION WITH ECUADOR.

3. ECUADOREAN POSITION: GOE OFFICIALS HAVE INFORMED US THAT ECUADOR IS LIKELY TO ADOPT A POSITION ALLOWING FREE  
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PAGE 02 QUITO 02525 01 OF 04 141854 Z

PASSAGE BEYOND TWELVE MILES ( QUITO 2204; 2207), THAT THE GOE FAVORS THE CONSERVATION OF THE RESOURCES OF THE SEA AND SEABED AND IS, THEREFORE, WILLING TO ENTER INTO INTERNATIONAL AGREEMENTS FOR THE CONSERVATION OF THESE RESOURCES INCLUDING FISH BY SPECIES ( QUITO 2249 AND QUITO 2510), AND THAT THE MOST OBJECTIONABLE PROVISIONS OF THE PROPOSED ECUADOREAN FISHERIES LAW MAY NOT BE ENACTED AFTER ALL INCLUDING ( IMMEDIATELY AT LEAST) THOSE RELATING TO THE LIMITING OF FOREIGN FLAG FISHING.  
( QUITO 2240; DAO IR-6-828-0052-73 OF 0716027 - MAY 73.)

4. WHILE THE GOE HAS NOT YET ADOPTED ANY OF THESE POSITIONS, THE FACT THAT HIGH GOE OFFICIALS ARE WILLING AND INDEED EAGER TO DISCUSS THEM WITH US SUGGEST THAT THEY ARE BEING SERIOUSLY CONSIDERED WITHIN THE GOVERNMENT.

5. MORE SIGNIFICANTLY, HOWEVER, THESE STATEMENTS INDICATE AN IMPORTANT SHIFT IN GOE PERSPECTIVES. DURING THE FISHERIES NEGOTIATIONS OF LAST SUMMER AND AUTUMN, THE FOCUS WAS ON THE NATIONALISTIC ASPECTS OF THE ISSUE. AT THE TIME THESE NEGOTIATIONS FAILED, THE UNDER SECRETARY OF THE FOREIGN MINISTRY TOLD THE AMBASSADOR THAT THE NEGOTIATION PROCESS HAD FORCED HIM AND OTHERS TO RECONSIDER WHAT ECUADOR'S INTERESTS ACTUALLY WERE IN THE MATTER. AT THAT TIME THE UNDER SECRETARY SUGGESTED THAT THE REAL INTEREST OF ECUADOR WAS PROBABLY IN THE NATURAL RESOURCES OF THE TWO HUNDRED MILE ZONE RATHER THAN IN JUST SELLING FOREIGNERS ADMISSION TICKETS TO THE SEAWARD EXTENSION OF THE NATIONAL TERRITORY IN THE FORM OF FISHING LICENSES ( QUITO 0102). IN FACT, THE ANALYTICAL PROCESS GENERATED BY THE NEGOTIATIONS MAY BE ONE OF THE REASONS WHY THEY FAILED.

6. THIS ANALYTICAL PROCESS NOW SEEMS TO HAVE GENERATED THE CONCLUSION THAT THE RESOURCES AND THEIR CONSERVATION ARE WHAT IS REALLY IMPORTANT TO ECUADOR. THIS OPINION IS SUPPORTED BY THE OBSERVED TREND TO AN EXCLUSIVE FISHING ZONE ( QUITO 1382), GOE INTEREST IN OBTAINING US SUPPORT FOR THE CREATION OF A FISHING COMPLEX ( QUITO  
CONFIDENTIAL

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PAGE 03 QUITO 02525 01 OF 04 141854 Z

1062), AND MOST RECENTLY THE REMARKS IN FAVOR OF RESOURCE CONSERVATION BY THE UNDER SECRETARIES OF THE MINISTRIES OF FOREIGN RELATIONS AND NATURAL RESOURCES ( QUITO 2249).

7. THIS SHIFT IN ATTITUDE IS IMPORTANT BECAUSE IT REPRESENTS A MOVE AWAY FROM THE PURELY NATIONALISTIC

POSITION WHICH PREVAILED PREVIOUSLY.  
HENCE IT MAY BE  
INHERENTLY MORE FLEXIBLE.

8. IN SUMMARY, THE EMBASSY BELIEVES THAT BASIC CHANGES MAY BE TAKING PLACE IN GOE LOS AND FISHERIES THINKING AND THAT MATTERS COULD BE AT A POINT WHERE POSITIVE ACTION ON OUR PART COULD INFLUENCE DECISIONS IN A WAY FAVORABLE TO OUR INTERESTS. SPECIFICALLY, WE THINK THAT THE GOE MIGHT BE READY TO AGREE TO FREE PASSAGE BEYOND TWELVE MILES EVEN BEFORE THE 1974 LOS CONFERENCE, TO CERTAIN TYPES OF INTERNATIONAL CONSERVATION AGREEMENTS BY SPECIES OF FISH, AND FINALLY ( AND LESS CERTAINLY) TO PERMIT CONTINUED US FLAG FISHING PROVIDED THAT THIS IS NOT DEEMED INCOMPATIBLE WITH GOE SOVEREIGNTY, FISHING CAPACITY AND CONSERVATION PLANS.

9. U. S. POSITION: WE HAVE BEEN MUCH STRUCK BY STATEMENTS ON FISHERIES AND LOS BY THE SECRETARY TO THE OASGA AND IN HIS INTRODUCTORY COMMENT TO HIS REPORT ON UNITED STATES FOREIGN POLICY 1972 TO THE EFFECT THAT THE US IS PREPARED TO SUPPORT " BROAD COASTAL STATE ECONOMIC JURISDICTION OVER MINERAL AND FISHERIES RESOURCES IN AREAS ADJACENT TO THE TERRITORIAL SEA..."  
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PAGE 01 QUITO 02525 02 OF 04 141904 Z

52  
ACTION ARA-17

INFO OCT-01 ADP-00 COA-02 CIAE-00 PM-09 H-02 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12 CG-00

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R 141650 Z MAY 73  
FM AMEMBASSY QUITO  
TO SECSTATE WASHDC 7432  
INFO AMEMBASSY LIMA  
AMCONSUL GUAYAQUIL  
USCINCSO  
DIA WASHDC

CONFIDENTIAL SECTION 2 OF 4 QUITO 2525

10. AREAS OF POTENTIAL AGREEMENT BETWEEN THE US AND ECUADOR:  
IN VIEW OF THE CURRENT TRENDS OF THINKING APPEARING  
ON BOTH SIDES, IT APPEARS THERE COULD BE A POTENTIAL  
AREA OF AGREEMENT BETWEEN THE US AND ECUADOR:  
( A ) BOTH SIDES AGREE ON SOME FORM OF EXTENDED COASTAL  
STATE JURISDICTION BEYOND TWELVE MILES. ( B ) BOTH SIDES  
AGREE ON THE NEED FOR THE CONSERVATION OF THE NATURAL  
RESOURCES OF THE SEA. ( C ) BOTH SIDES AGREE THAT THE  
CONSERVATION OF SPECIFIC SPECIES OF FISH IS DESIRABLE AND  
THAT THIS END CAN BE ACHIEVED THROUGH INTERNATIONAL AGREE-  
MENTS. ( D ) BOTH SIDES AGREE ( OR AT LEAST ECUADOR APPEARS  
TO BE READY TO AGREE ) ON THE PRINCIPLE OF FREE PASSAGE  
BEYOND TWELVE MILES.

11. ALTHOUGH THERE APPEARS TO EXIST A SIGNIFICANT AREA  
OF REAL OR POTENTIAL AGREEMENT ON FISHERIES BETWEEN THE  
US AND ECUADOR, AREAS OF DISAGREEMENT REMAIN: ( A )  
ECUADOR AND THE US DISAGREE ON THE NATURE OF THE EXTENDED  
ECONOMIC ZONE BEYOND TWELVE MILES, ECUADOR CLAIMING IT AS  
TERRITORIAL SEA WHILE THE US IS SIMPLY PREPARED TO RECOG-  
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PAGE 02 QUITO 02525 02 OF 04 141904 Z

NIZE THAT ECUADOR SHOULD ENJOY " ECONOMIC JURISDICTION"  
SUBJECT TO INTERNATIONAL RESTRAINTS IN AN AREA BEYOND  
TWELVE MILES WHOSE SIZE IS NOT DEFINED. ( B ) THERE  
EXISTS POTENTIAL DISAGREEMENT BETWEEN ECUADOR AND THE US  
OVER THE NATURE OF THE INTERNATIONAL AGREEMENTS DESIGNED  
TO CONSERVE CERTAIN SPECIES OF FISH SUCH AS TUNA. THE  
US POSITION, AS STATED IN THE SECRETARY'S FOREIGN POLICY  
REPORT FOR 1972 ON PAGE 132, IS THAT " TUNA AND OTHER  
HIGHLY MIGRATORY OCEANIC SPECIES WOULD BE REGULATED NOT  
BY INDIVIDUAL COASTAL STATES BUT BY APPROPRIATE INTER-  
NATIONAL ORGANIZATIONS." ON THE OTHER HAND ECUADOR, WHILE  
NOW SEEMINGLY WILLING TO CONSIDER AND PARTICIPATE IN INTER-  
NATIONAL REGULATION OF MIGRATORY SPECIES WITHIN AND BEYOND  
THE 200 MILES, WOULD INSIST ON BEING THE EXECUTIVE AGENT  
FOR SUCH REGULATION OVER SUCH SPECIES WITHIN THE 200 MILES  
( QUITO 2249 AND QUITO 2510). ( C ) THE PROBLEM OF US  
SANCTIONS AND THE NEED FOR GOE ASSURANCES THAT US SHIPS  
WILL NOT BE SEIZED AFTER SANCTIONS ARE LIFTED. THIS  
PROBLEM WILL BE DISCUSSED IN THE SECTION ON PRECONDITIONS  
TO NEGOTIATIONS.

12. GIVEN THE NEW RATHER EXTENSIVE POTENTIAL OR EXISTING  
AREA OF AGREEMENT BETWEEN THE US AND ECUADOR, THE CT  
BELIEVES THAT A NEW ATTEMPT AT A FISHERIES SOLUTION OUGHT  
TO BE EXPLORED. THE AREAS OF DISAGREEMENT ARE IMPORTANT  
BUT HOPEFULLY WOULD NOT PRESENT INSUPERABLE PROBLEMS.

13. IN THE VIEW OF THE CT THE PROPOSED EXPLORATORY NEGOTIATIONS WITH THE GOE SHOULD BE SEEN AS CONFRONTING TWO BASICALLY DIFFERENT PROBLEMS: ( A) PRECONDITIONS AND ( B) ACTUAL NEGOTIATIONS.

14. PRECONDITIONS: BOTH SIDES HAVE PRECONDITIONS. THE ECUADOREAN PRECONDITION IS THE REFUSAL TO NEGOTIATE WHILE UNDER THE THREAT OF SANCTIONS ( OR, IN ITS MOST EXTREME FORM, WHILE THE SANCTIONS REMAIN UNREPEALED ( QUITO 0094). IN OUR OPINION THE BASIC REASONS FOR GOE INTRANSIGENCE ON THIS POINT ARE FIRST THE ECUADOREAN EMOTION OF " DIGNIDAD" AND SECONDLY ( AND PROBABLY MOST IMPORTANTLY) THE FACT THAT THE GOE IS SIMPLY NOT STRONG ENOUGH TO SURVIVE A SETTLEMENT WHICH WOULD COMPROMISE THIS POINT  
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PAGE 03 QUITO 02525 02 OF 04 141904 Z

SINCE IT WOULD INVITE OUTFLANKING BY A NATIONALIST ATTACK.

15. THE US PRECONDITION ( AS STATED IN NSDM 194 OF OCTOBER 27, 1972) IS THAT IF THE FMS SANCTION BE LIFTED, THEN THE USG MUST BE ASSURED THAT MORE US FLAG TUNA BOATS WILL NOT BE SEIZED.

16. THE CT BELIEVES THAT NO SUCCESSFUL NEGOTIATIONS ARE POSSIBLE UNLESS THE ECUADOREAN PRECONDITION ON LIFTING SANCTIONS COULD BE MET. IN OTHER WORDS, THE CT RECOMMENDS THAT THE US UNILATERALLY LIFT THE FMS SANCTION ( USING, IF POSSIBLE, THE SIGNED WAIVER REFERRED TO IN NSDM-194); AND IN ADDITION THAT WE NOT IMPOSE THE SANCTION CONTEMPLATED BY THE LATEST AMENDMENT TO THE FPA -- HR 7117. IN THIS CONNECTION THE CT NOTES THE PRESIDENT' S REMARKS OF MAY 3, 1973, CONCERNING HIS ANNUAL REPORT TO THE CONGRESS ON FOREIGN AFFAIRS IN WHICH HE ASKED THE CONGRESS TO LOOK AT OUR SANCTIONS LEGISLATION: " WE NEED TO STUDY, FOR EXAMPLE, WHETHER VARIOUS RESTRICTIONS SERVE THE PURPOSES FOR WHICH THEY WERE DESIGNED. DO THEY DETER OTHER GOVERNMENTS FROM VARIOUS ACTIONS, SUCH AS SEIZING FISHING BOATS? OR DO THEY MERELY MAKE THE SOLUTION OF SUCH PROBLEMS MORE DIFFICULT? I BELIEVE THAT SOME CURRENT RESTRICTIONS ARE ENTIRELY TOO RIGID AND DEPRIVE US OF THE FLEXIBILITY WE NEED TO WORK OUT MUTUALLY BENEFICIAL SOLUTIONS." THE CT BELIEVES THAT ECUADOR IS A CLASSIC EXAMPLE OF THE FAILURE OF SANCTIONS LEGISLATION TO INFLUENCE OTHER GOVERNMENTS TO ACT AS WE WISH. INDEED, SUCH LEGISLATION AND ITS IMPLEMENTATION HAVE IN FACT WORSENERED THE SITUATION HERE AND HAVE BEEN A KEY FACTOR IN OUR FAILURE TO REACH AN AGREEMENT. IT IS BECAUSE THE CT BELIEVES THAT THE US SANCTIONS POLICY HAS BEEN A FAILURE AND HAS PREVENTED ANY FISHERIES SOLUTION THAT IT URGES THAT WE LIFT THE FMS SANCTION AND THAT WE NOT IMPOSE THE HR 7117 SANCTION. WE WOULD COUNT ON THE GOE

BEING SATISFIED WITH WAIVER AND NOT PUSHING FOR THE  
EXTREME POSITION ( NEVER PUBLICLY EXPRESSED) OF REPEAL.  
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PAGE 01 QUITO 02525 03 OF 04 142042 Z

70  
ACTION ARA-17

INFO OCT-01 ADP-00 COA-02 CIAE-00 PM-09 H-02 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12 CG-00

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R 141650 Z MAY 73  
FM AMEMBASSY QUITO  
TO SECSTATE WASHDC 7433  
INFO AMEMBASSY LIMA  
AMCONSUL GUAYAQUIL  
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C O N F I D E N T I A L SECTION 3 OF 4 QUITO 2525

17. AT THE MOMENT THE SANCTION UPPERMOST IN THE MINDS  
OF GOE OFFICIALS IS HR 7117 ( THE AID DEDUCT). AS  
REPORTED IN QUITO DAO IR 6-828-0052-73 OF 017602 Z MAY,  
1973, THE IMPLEMENTATION OF THIS SANCTION WOULD  
PROBABLY ELIMINATE THE US BIDDERS FROM FURTHER  
CONSIDERATION IN THE CONSTRUCTION OF THE \$20 TO \$30  
MILLION FISHING COMPLEX IN ECUADOR AND WOULD UN-  
DOUBTEDLY HAVE EVEN GRAVER CONSEQUENCES SUCH AS THE  
EXPULSION OF THE AID MISSION FROM ECUADOR. THEREFORE  
THE CT RECOMMENDS THAT THE SECRETARY EXERCISE THE DIS-  
CRETION WHICH APPEARS TO BE GRANTED HIM IN SECTION 5 ( A)  
(2) OF HR 7117 AND NOT MAKE A CLAIM AGAINST THE GOE. IF  
THE SECRETARY WERE TO DO THIS, IT IS THE OPINION OF THE  
EMBASSY THAT THE QUESTION OF THE AID DEDUCT AND THE  
PROBLEM OF ITS POSSIBLE WAIVER WOULD NOT ARISE. ( SEE  
AMBASSADOR BURNS' LETTER OF APRIL 30, 1973 TO MR. PRINGLE  
OF ARA- LA/ EP FOR AN IN- HOUSE LEGAL MEMORANDUM ON THE  
DISTINCTION BETWEEN THE NOTIFICATION AND CLAIM SECTIONS  
OF HR 7117 AS WELL AS FOR OTHER IMPORTANT FACTORS.)

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PAGE 02 QUITO 02525 03 OF 04 142042 Z

18. THE CT FURTHER RECOMMENDS THAT IF THE SECRETARY SHOULD DECIDE TO EXERCISE HIS DISCRETION UNDER SECTION 5 (A) (2) OF HR 7 117 A DECISION BE MADE TO MAKE NO NOTIFICATION WHATEVER TO THE GOE SINCE NOTIFICATION WOULD MAKE NO SENSE IN VIEW OF THE DECISION NOT TO MAKE A CLAIM. THE CT FEARS THAT THE GOE WILL REGARD NOTIFICATION AS A CLAIM AND A SANCTION AND REACT ACCORDINGLY. SUCH A REACTION WOULD, IN ADDITION TO THOSE MENTIONED ABOVE, ALSO ELIMINATE ANY CHANCE OF FISHERIES NEGOTIATIONS WITH ECUADOR FOR A LONG TIME. IN OTHER WORDS, IF WE DO NOT FINESSE THE AID DEDUCT AMENDMENT TO THE FPA NOW, WE WILL PROBABLY NOT HAVE ANOTHER CHANCE TO NEGOTIATE WITH THE GOE ON FISHERIES IN THE FORESEEABLE FUTURE. DURING THE FIRST YEAR OF THAT PERIOD, IF WE DO NOT DO THIS, WE MAY BE FACED WITH FISHING FINES OF MORE THAN 3 MILLION DOLLARS, THE EXPULSION OF THE AID/ E MISSION, AND THE LOSS OF THE TUNA COMPLEX CONTRACT.

19. THE PROBLEM OF OUR OWN PRECONDITION RE FMS: THE CT DOES NOT BELIEVE THAT WE CAN OBTAIN OR THAT WE SHOULD TRY TO OBTAIN GOE ASSURANCES, ORAL OR OTHERWISE, THAT IF WE LIFT THE FMS SANCTION, ECUADOR WILL NOT SEIZE ANY MORE BOATS. POLITICALLY, THE GOE FEELS IT CANNOT AFFORD TO GIVE SUCH AN ASSURANCE, AND IT MIGHT NOT BE ABLE TO IMPLEMENT IT IF GIVEN. HOWEVER, IF WE LIFT THE FMS SANCTION NOW AND START NEGOTIATIONS AT ONCE, THERE SHOULD BE ENOUGH TIME TO WORK OUT AN AGREEMENT WITH ECUADOR BEFORE THE FALL FISHING SEASON. THUS THE ABSENCE OF AN ECUADOREAN ASSURANCE WOULD ENTAIL SOME RISK, BUT PROBABLY NOT TOO MUCH. BUT THIS SCENARIO IS VERY TIME DEPENDENT, AND SO AN EARLY USG DECISION IS REQUIRED. ON THE OTHER HAND, IF WE DID LIFT FMS AND IF THE NEGOTIATIONS THEN FAILED, THE SANCTION COULD IF NECESSARY BE REIMPOSED BUT WITHOUT PUBLICITY. THE MAIN THING IS NOT TO LET THE PROBLEM OF SANCTIONS GET IN THE WAY OF THE CHANCE OF A SOLUTION.

20. ACTUAL NEGOTIATIONS: CONSIDERING THE AREAS OF AGREEMENT AND DISAGREEMENT EXISTING BETWEEN THE GOE AND OURSELVES, THE CT RECOMMENDS THE FOLLOWING NEGOTIATING POSITION: (A) THE US WOULD TELL ITS FISHER-  
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PAGE 03 QUITO 02525 03 OF 04 142042 Z

MEN, SUBJECT TO STEP (C) BELOW, THAT A CONSERVATION AGREEMENT WITH ECUADOR EXISTS, AND CONSEQUENTLY THEY SHOULD BUY LICENSES FOR ECUADOREAN- CLAIMED WATERS. EACH SIDE

WOULD BE FREE TO INTERPRET THIS AS IT WISHES. WE WOULD CHOOSE TO INTERPRET THIS AS A PRECURSOR TO AN INTERNATIONAL CONSERVATION AGREEMENT COVERING TUNA AND THAT THE GOE WOULD HAVE ENFORCEMENT RESPONSIBILITY WITHIN AN EXTENDED ECONOMIC ZONE OFF ECUADOR. THE US WOULD ALSO ASSERT THAT THIS STEP IS WITHOUT PREJUDICE TO ITS LOS POSITION. ( B) ECUADOR WOULD AGREE TO SELL LICENSES TO US FLAG TUNA FISHING VESSELS IN SUFFICIENT QUANTITY TO AND ON CONDITIONS INCLUDING FINANCIAL WHICH WOULD PERMIT THE NUMBER AND TYPE OF US BASED AND FLAG FISHING VESSELS WHICH HAVE HISTORICALLY FISHED FOR TUNA OFF ECUADOR DURING THE PAST FIVE YEARS TO CONTINUE DOING SO AT PRESENT OR NEGOTIATED COSTS FOR FIVE YEARS FROM THE DATE OF THE AGREEMENT. AT THAT TIME BOTH PARTIES WOULD AGREE TO CONSULT ON THIS QUESTION AGAIN TAKING INTO ACCOUNT SUCH FACTORS AS MAY EXIST THEN. ( C) THE US AND ECUADOR WOULD AGREE THAT THE CONSERVATION OF THE RESOURCES OF THE SEA INCLUDING TUNA FISH ARE NECESSARY AND DESIRABLE. ECUADOR AND THE US WOULD FURTHER AGREE THAT THE PROBLEMS OF TUNA FISH CONSERVATION ARE OF A SPECIAL NATURE BECAUSE OF THEIR MIGRATORY BEHAVIOR. IN VIEW OF THESE SPECIAL PROBLEMS, ECUADOR AND THE US WOULD AGREE THAT AN INTERNATIONAL AGREEMENT IS NECESSARY FOR TUNA CONSERVATION. ( D) ECUADOR WOULD AGREE TO ACCEPT THE PRINCIPLE OF FREE PASSAGE BEYOND TWELVE MILES. ( E) THE US WOULD AGREE TO ASSIST ECUADOR INsofar AS IS POSSIBLE ( INCLUDING PERHAPS AN AID LOAN) AND AS IT IS REQUESTED TO DO SO IN THE CREATION OF AN ECUADOREAN NATIONAL FISHERIES COMPLEX. ( F) THE US WOULD AGREE TO PROVIDE ECUADOR WITH TECHNICAL ASSISTANCE TO STUDY THE NATURAL RESOURCES OF ITS EXTENDED ECONOMIC ZONE SO THAT THEY MAY BETTER BE CONSERVED. ( G) ECUADOR AND THE US WOULD AGREE JOINTLY TO PROPOSE THIS AGREEMENT TO CHILE AND PERU AS A SOLUTION TO THE FISHERIES PROBLEM EXISTING BETWEEN THE CEP COUNTRIES AND THE UNITED STATES.

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PAGE 01 QUITO 02525 04 OF 04 142138 Z

70  
ACTION ARA-17

INFO OCT-01 ADP-00 COA-02 CIAE-00 PM-09 H-02 INR-10 L-03

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R 141650 Z MAY 73  
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C O N F I D E N T I A L SECTION 4 OF 4 QUITO 2525

21. DISCUSSION OF THE PROPOSED NEGOTIATING POSITION:  
THE BASIC PURPOSE OF THIS PROPOSED POSITION IS FIRST TO  
MAXIMIZE THE AREAS OF ACTUAL OR POTENTIAL MUTUAL AGREE-  
MENT TO SOLVE THE PROBLEMS POSED BY OUR AREAS OF DISAGREE-  
MENT, AND SECONDLY TO GET AT THE BASIC ISSUES OF PREVENT-  
ING THE RAPID EXCLUSION OF US FISHING VESSELS FROM  
ECUADOREAN- CLAIMED WATERS AND THE NEED TO GAIN SUPPORT  
FOR OUR POSITION ON FREE PASSAGE AT THE EXPENSE OF THE  
IDEA INHERENT IN AN EXCLUSIVE NATIONAL 200 MILE  
TERRITORIAL SEA.

22. IT IS THE OPINION OF THE CT THAT THE GOE IS PRESENTLY  
AT A CRITICAL POINT IN MAKING IMPORTANT POLICY DECISIONS  
AFFECTING ITS POSITION ON LOS AND FISHERIES. THE CT  
BELIEVES THAT THE GOE MIGHT BE DISPOSED TO MAKE DECISIONS  
FAVORABLE TO THE INTERESTS OF THE US IF WE COULD GET  
CONVERSATIONS STARTED AGAIN SOON.

23. AS THE EMBASSY HAS REPORTED IN THE PAST ( QUITO 1382)  
THE BASIC NATURE OF THE FISHERIES PROBLEM WITH ECUADOR  
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PAGE 02 QUITO 02525 04 OF 04 142138 Z

HAS CHANGED. BEFORE THE BASIC ISSUE WAS A NATIONALISTIC  
ONE. NOW IT IS BECOMING ONE OF HOW TO PREVENT THE EX-  
CLUSION OF US FLAG FISHING VESSELS FROM WATERS OFF  
ECUADOR. THE PROPOSED NEGOTIATING POSITION ATTEMPTS TO  
GET AT THAT NEW ISSUE BY GAINING AN INITIAL PERIOD OF  
CONTINUED FISHING AND AN AGREEMENT TO CONSULT WHEN THAT  
TIME EXPIRES. ON THE OTHER HAND, THE US SEEKS TO  
GAIN ECUADOREAN AGREEMENT TO ITS POSITION ON FREE PASSAGE  
AND TO ITS VIEW OF HOW THE HIGHLY MIGRATORY TUNA MAY BEST  
BE CONSERVED.

24. SUMMARY RECOMMENDATIONS: THE CT, THEREFORE, MAKES  
THE FOLLOWING RECOMMENDATIONS: ( A) THAT THE FMS  
WAIVER BE ISSUED UNILATERALLY AND THAT A DECISION BE  
MADE NOT TO INVOKE HR 7117 AND THAT, THEREFORE, NO  
CLAIM NOR NOTIFICATION BE MADE WITH RESPECT TO THAT LAW.  
( B) THAT IF NOTIFICATION MUST BE MADE EVEN THOUGH THE

DEPARTMENT DECIDES NOT TO MAKE A CLAIM, THEN IT SHOULD BE MADE IN SUCH A WAY THAT THE GOE WILL NOT CONSTRUCT IT AS A CLAIM OR THE THREAT OF A SANCTION. CONSEQUENTLY, THE CT URGES THAT, AT THE TIME OF NOTIFICATION, THE ECUADOREAN EMBASSY BE TOLD ORALLY AND THE GOE ALSO BE TOLD ORALLY IN QUITO AT THE SAME TIME THAT THE DEPARTMENT DOES NOT INTEND TO MAKE A CLAIM UNDER HR 7117 AND THAT THEREFORE THE QUESTION OF DEDUCTING FUNDS FROM THE AID/ E PROGRAM WILL NOT ARISE. ( C ) THAT NEGOTIATIONS BE INAUGURATED SOONEST WITH THE GOE ALONG THE LINES PROPOSED IN THIS MESSAGE.

25. THE CT BELIEVES THAT ITS RECOMMENDATIONS ARE COMPATIBLE IN THEIR GENERAL THRUST WITH NSDM 194 AND WITH SUBSEQUENT POLICY STATEMENTS OF THE PRESIDENT AND THE SECRETARY AND SUGGESTS THAT THE AUTHORITY CONVEYED IN THAT NSDM MAY BE SUFFICIENT TO AUTHORIZE THE PROPOSED ACTIONS AND NEGOTIATIONS.  
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\*\*\* Current Handling Restrictions \*\*\* n/a  
\*\*\* Current Classification \*\*\* CONFIDENTIAL

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**Subject:** CT RECOMMENDS NEW FISHERIES SOLUTION FOR ECUADOR POLICY  
**TAGS:** EFIS, EC, US, PFOR  
**To:** ARA  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005